

1 MANATT, PHELPS & PHILLIPS, LLP  
2 ROBERT A. JACOBS (State Bar No. 160350)  
E-mail: rjacobs@manatt.com  
3 MAURA K. GIERL (State Bar No. 287430)  
E-mail: mgierl@manatt.com  
11355 West Olympic Boulevard  
4 Los Angeles, California 90064-1614  
Telephone: (310) 312-4000  
5 Facsimile: (310) 312-4224

6 *Attorneys for Plaintiff*  
7 TRACY CHAPMAN

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10  
11 TRACY CHAPMAN,  
12 Plaintiff,

13 vs.

14 ONIKA TANYA MARAJ p/k/a  
15 NICKI MINAJ and DOES 1-10,  
16 Defendants.

No. 2:18-cv-9088

**COMPLAINT AND  
DEMAND FOR JURY TRIAL**

1 Plaintiff Tracy Chapman (“Chapman”) alleges as follows:

2 **Nature Of The Action**

3 1. Chapman brings this copyright infringement action to address the  
4 willful infringement by Onika Tanya Maraj p/k/a Nicki Minaj (“Maraj”) and Does  
5 1-10 (collectively, “Defendants”) of Chapman’s exclusive copyright in and to her  
6 well-known musical composition *Baby Can I Hold You* (the “Composition”).

7 2. Beginning in June 2018, Maraj and her representatives and/or agents  
8 made multiple requests to license the Composition for use in Maraj’s recording  
9 (featuring Nas), *Sorry* (the “Infringing Work”), which, on information and belief,  
10 Maraj had already made without the requested license for inclusion on her recently  
11 released album, *Queen*.

12 3. Chapman, through her own agents and representatives, repeatedly  
13 denied Maraj’s after-the-fact requests to use the Composition. Notwithstanding  
14 those denials, Maraj, on information and belief, provided a copy of the Infringing  
15 Work to Aston George Taylor, Jr. p/k/a Funkmaster Flex (“Taylor”), a well-known  
16 disc jockey at the popular New York City radio station HOT 97, who then teased  
17 the Infringing Work on his Twitter and Instagram accounts, stating that Maraj had  
18 given him something “ft @nas” that is “not on her [*Queen*] album”. Taylor then  
19 played the Infringing Work on HOT 97, and, possibly, through other outlets.

20 4. This action is necessary to redress Maraj’s disregard and willful  
21 infringement of Chapman’s rights under the Copyright Act, and to ensure that her  
22 misconduct is not repeated.

23 **Jurisdiction And Venue**

24 5. This action arises under the United States Copyright Act, 17 U.S.C. §§  
25 101 *et seq.*

26 6. This Court has exclusive jurisdiction over this action under 28 U.S.C.  
27 §§ 1331 and 1338 in that this action involves claims arising under the Copyright  
28 Act.

1           7.     The Court has personal jurisdiction over the Defendants because each  
2 of them is domiciled in and/or regularly transacts or solicits business in the State of  
3 California.

4           8.     Venue in this District is proper under 28 U.S.C. § 1391 because  
5 Defendants are subject to personal jurisdiction in this District.

6                                   **The Parties**

7           9.     Chapman is a resident of the State of California.

8           10.    Upon information and belief, Maraj is a resident of the State of  
9 California, and, in any event, regularly conducts business in the State of California.

10          11.    Upon information and belief, Defendants John Does are one or more  
11 individuals and/or entities who participated in, facilitated, encouraged, and/or had  
12 supervisory authority over the infringement set forth herein, and are therefore  
13 wholly or partially liable therefor.

14                                   **Background**

15                                   **Tracy Chapman**

16          12.    Chapman is a prominent and Grammy Award-winning singer,  
17 songwriter and musician who first gained popularity in the 1980s. Chapman's self-  
18 titled debut album (the "Album"), which she released in 1988, features such hits as  
19 the Composition and *Fast Car*.

20          13.    The Composition was a huge success, and reached the Top 50 on  
21 Billboard Magazine's Hot 100 chart.

22          14.    The Album also was a triumph, garnering Chapman a 1989 Grammy  
23 Award for Best Contemporary Folk Album and a nomination for Album of the  
24 Year. Chapman won two more Grammy Awards in 1989 for Best New Artist and  
25 for Best Female Pop Vocal Performance for *Fast Car*.

26          15.    Chapman's achievements continued long after the Album's release.  
27 Throughout the 1990s and 2000s, Chapman received several more Grammy  
28 nominations, including for Best Rock Song for *Give Me One Reason*, which she

1 won, and many other awards. At every turn, Chapman's music has been critically  
2 acclaimed and respected.

### 3 **The Composition**

4 16. Chapman wrote the Composition between 1982 and 1983, and  
5 obtained a copyright registration for the work (and other musical compositions) –  
6 PAu000556755 – from the United States Copyright Office on October 20, 1983.

7 17. After entering into a publishing administration agreement with  
8 Chapman and receiving a partial assignment of the copyright in the Composition,  
9 SBK April Music, Inc. ("SBK") obtained a copyright registration for the  
10 Composition – PA0000417830 – on or about May 5, 1989, listing it and Purple  
11 Rabbit Music, Chapman's publishing designee, as the copyright claimants in  
12 Composition.

13 18. In or around May 2016, SBK's rights in the Composition transferred  
14 back to Chapman, making her the sole owner of the copyright in the Composition.

### 15 **The Infringing Work**

16 19. Upon information and belief, Maraj recorded the Infringing Work with  
17 the intention of including it on her album *Queen*, which she released on or about  
18 August 10, 2018.

19 20. The Infringing Work incorporates the lyrics and vocal melody of the  
20 Composition, its most recognizable and memorable parts. Maraj recorded the  
21 Infringing Work using these parts of the Composition without first seeking the  
22 authorization to do so.

23 21. The Composition's lyrics and vocal melody comprise approximately  
24 half of the Infringing Work, and are easily recognizable and identifiable as  
25 Chapman's.

26 22. The amount and substantiality of the use as compared to the  
27 Composition is significant. Indeed, the Infringing Work uses almost all of the  
28

1 Composition's lyrics, demonstrating that the two works are strikingly similar.<sup>1</sup>

2 23. It was only after Maraj recorded the Infringing Work that she and/or  
3 her representatives sought Chapman's consent to use the Composition.

4 24. On or around June 26, 2018, a representative from DMG Clearances,  
5 Inc. ("DMG") sent Chapman's business managers and administrators of her  
6 publishing rights an e-mail informing them that she had an "A LIST artist" who  
7 wanted to use the Composition, and asking if Chapman was still on a "do not  
8 sample or interpolate list".

9 25. On or around July 10, 2018, in response to a request for more  
10 information regarding the request, the representative from DMG e-mailed a letter to  
11 Chapman's business manager, stating that she was "working on a sample clearance  
12 for . . . recording artist Nicki Minaj".

13 26. In the same letter, the representative admitted, "In the song . . . [Maraj]  
14 *has used interpolations from [the Composition].*" (Emphasis added) The  
15 representative continued, "Because of the nature of this clearance, the rights that we  
16 are looking to secure include the right to use this sample in our new composition in  
17 all audio configurations, now known or hereinafter devised, throughout the world,  
18 in perpetuity including music video rights and digital downloads and ring tones/ring  
19 tunes."

20 27. On or around July 16, 2018, Chapman, through her business managers,  
21 notified DMG that she would not consent to the use of the Composition in the  
22 Infringing Work.

23 28. Notwithstanding the clear and unequivocal denial of the requested  
24 license, on or around July 27, 2018, Gee Roberson, who identified himself as  
25 Maraj's manager, e-mailed Chapman's business managers, requesting that they  
26 connect Chapman with Maraj to discuss an "idea [of Maraj's] that is one of the

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27 <sup>1</sup> A chart comparing the lyrics of the Composition with the lyrics of the Infringing  
28 Work is appended hereto as **Exhibit 1**.

1 most personal for her that was inspired by [Chapman's] art that [Maraj] would like  
2 the opportunity to touchbase (sic) with [Chapman] about.” Roberson followed up  
3 on his e-mail with a phone call to Chapman's business manager.

4 29. Despite the communications between DMG and Roberson, on the one  
5 hand, and Chapman's representatives, on the other hand, and the blatant use of the  
6 Composition in the Infringing Work, on or around July 31, 2018, Maraj tweeted  
7 that she “had no clue [the Infringing Work] sampled the legend #Tracy Chapman –  
8 do I keep my date & lose the record? Or do I lose the record & keep my date? [D]o  
9 we push #Queen back 1week (sic)? Ugh! I'm torn, y'all help”. The tweet has since  
10 been deleted.

11 30. On information and belief, on the same day, Maraj published another  
12 tweet in which she reached out to Chapman to ask her to clear the license to use the  
13 Composition in the Infringing Work.

14 31. On information and belief, on the same day, Maraj also asked her  
15 Twitter followers to vote on whether to delay the release of the then-forthcoming  
16 album *Queen* in order to obtain the necessary license for the Infringing Work, or to  
17 release *Queen* without the Infringing Work.

18 32. On or around August 8, 2018, Peter Bittenbender called Chapman's  
19 attorney to discuss the Infringing Work and *Queen*. On the call, Bittenbender noted  
20 that he was asked to telephone Chapman's attorney on behalf of the producer of the  
21 Infringing Work.

22 33. Following that conversation, Chapman's attorney sent a confirmatory  
23 e-mail to Bittenbender, copying Roberson, to confirm (again) that Chapman had not  
24 licensed the use of the Composition.

25 34. On August 10, 2018, Maraj commercially released *Queen* without the  
26 Infringing Work.

27 35. On or around the same day, and in response to Chapman's attorney's  
28 e-mail, Roberson confirmed that he already had been “made aware of the denied

1 use” of the Composition in the Infringing Work.

2 36. On information and belief, on August 11, 2018, Maraj again took to  
3 Twitter, this time tweeting, “Sis said no”, apparently referring to Chapman’s  
4 continued denial of Maraj’s request to use the Composition.

5 37. Nevertheless, on information and belief, Maraj, or someone acting at  
6 her direction, reproduced and distributed the Infringing Work to Taylor with the  
7 understanding and expectation that Taylor would play the Infringing Work and  
8 thereby promote both it and *Queen*.

9 38. On August 11, 2018, Taylor published a series of tweets on Twitter,  
10 teasing the Infringing Work’s public release on his HOT 97 radio show, repeatedly  
11 indicating that Maraj gave him a copy of the Infringing Work.

12 39. Specifically, at 10:55 a.m. (PT) on August 11, 2018, Taylor tweeted,  
13 “Shhhhhhhh!!!! TONIGHT 7PM!!! NICKY GAVE ME SOMETHING!!!  
14 @nickiminaj ft @nas !!! (NOT ON HER ALBUM!) GONNA STOP THE CITY  
15 TONIGHT!!!!!!!!!!!!!!!”

16 40. At 11:34 a.m. (PT) on August 11, 2018, Taylor tweeted,  
17 “Shhhhhhhh!!!! TONIGHT 7PM!!! NICKI GAVE ME SOMETHING!!!  
18 @nickiminaj ft @nas !!! (NOT ON HER ALBUM!) GONNA STOP THE CITY  
19 TONIGHT!!!!!!!!!!!!!!!”

20 41. At 12:29 p.m. (PT) on August 11, 2018, Taylor tweeted,  
21 “Shhhhhhhh!!!! TONIGHT 7PM!!! I GOT SOMETHING!!! @nickiminaj ft @nas  
22 !!! (NOT ON HER ALBUM!) GONNA STOP THE CITY TONIGHT!!!!!!!!!!!!!!!”  
23 At the end of the tweet, Taylor included an link to his Instagram account, where he  
24 had an identical Instagram post.

25 42. At 2:36 p.m. (PT) on August 11, 2018, Taylor responded to a tweet in  
26 which a user asked, “Anyone have a link or know how to listen to @funkflex  
27 tonight at 7pm live for when that @NICKIMINAJ and @Nas song drops?” by  
28 saying, “Hot97 App!!!!”







**FIRST CLAIM FOR RELIEF**  
**(Copyright Infringement Against Maraj and Does 1-10)**

49. Chapman repeats and realleges each and every allegation contained in Paragraphs 1 through 48 of the Complaint as if fully set forth herein.

50. Chapman is the exclusive owner of the copyright in the Composition, and, as such, has the exclusive rights under the Copyright Act, among other things, to reproduce, distribute, prepare derivative works from and otherwise exploit the Composition, and to allow or not allow third parties to exercise such rights.

51. Chapman never authorized Maraj or anyone working with her, for her, on her behalf, or at her direction to use the Composition in any manner. To the contrary, Chapman, through her representatives, denied Maraj's requests to license the Composition for use in the Infringing Work.

52. Despite the foregoing, Maraj, among other things, prepared the Infringing Work using the Composition, thereby infringing Chapman's exclusive right under the Copyright Act to prepare derivative works from the Composition.

53. Additionally, upon information and belief, Maraj thereafter reproduced the Infringing Work and distributed it, thereby infringing Chapman's exclusive rights under the Copyright Act to reproduce and distribute the Composition.

54. Maraj's infringement of Chapman's rights under the Copyright Act was deliberate and willful.

55. The fact that the Infringing Work does not appear on *Queen* does not relieve Maraj of liability to Chapman for her infringement or make Maraj's wrongdoing any less deliberate and willful.

56. By reason of Maraj's infringement, Chapman has sustained substantial injury, loss and damage in an amount to be determined at trial, and, upon information and belief, Maraj has derived income and profits to which she is not entitled.

57. As a result of Maraj's actions, the Infringing Work is available through multiple websites hosted by Internet service providers all of the world. If Maraj is permitted to continue to use the Composition in the Infringing Work and/or not required to take reasonable steps to stop the continued exploitation of the Infringing Work, Chapman will suffer injury that is not compensable through an award of money damages, and for which she has no adequate remedy at law.

**Prayer for Relief**

WHEREFORE, Chapman prays for judgment as follows:

A. Permanently enjoining and restraining Maraj and her agents, servants and employees, and all other persons in active concert and participation with her or acting on her behalf, and each of them, from copying or otherwise using or exploiting the Infringing Work, including its interpolation of the Composition;

B. Permanently enjoining and requiring Maraj and her agents, servants and employees, and all other persons in active concert and participation with her or acting on her behalf, and each of them, to take reasonable steps to prevent third parties from using or exploiting the Infringing Work, including its interpolation of the Composition;

C. Awarding Chapman, at her election, either (i) actual damages and the profits derived by Maraj as a result of Maraj's infringing activities, or (ii) statutory damages in the maximum amount permitted under applicable law;

D. Directing that Maraj pay Chapman the costs of this action and her attorneys' fees herein;

E. Award Chapman pre-judgment and post-judgment interest on any monetary award; and

F. Granting Chapman such other and further relief as the Court may deem just and proper.

/ / /

/ / /

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Chapman hereby demands her right to trial by jury of all claims in this Action triable by jury.

Dated: October 22, 2018

MANATT, PHELPS & PHILLIPS, LLP

By: s/ Robert A. Jacobs

Robert A. Jacobs  
Maura K. Gierl

*Attorneys for Plaintiff*  
TRACY CHAPMAN

**EXHIBIT 1**  
Comparison Chart  
(Identical lyrics bolded)

<i><b>Baby Can I Hold You</b></i> (the Composition)	<i><b>Sorry</b></i> (the Infringing Work)
<b>Sorry</b>	Hey, baby
<b>Is all that you can't say</b>	Even though you break my heart
<b>Years gone by and still</b>	I still love you
<b>Words don't come easily</b>	<b>Sorry</b>
Like sorry like sorry	<b>Is all that you can't say</b>
	<b>Years gone by and still</b>
Forgive me	<b>Words don't come easily</b>
<b>Is all that you can't say</b>	<b>Like forgive me (forgive me)</b>
<b>Years gone by and still</b>	And you can say, baby (baby)
<b>Words don't come easily</b>	My baby, can I hold you tonight?
<b>Like forgive me forgive me</b>	And maybe if I told you the right words
	<b>Ooh, at the right time</b>
But you can say baby	<b>You'd be Nas</b>
<b>Baby can I hold you tonight</b>	Ayo
<b>Maybe if I told you the right words</b>	That bitch is always flippin'
<b>At the right time you'd be mine</b>	You n****s never listen
	We make a perfect team
I love you	Balling Jordan and Scottie Pippen
<b>Is all that you can't say</b>	But I'ma let you dip in
<b>Years gone by and still</b>	That wax sauce drippin'
<b>Words don't come easily</b>	Said that when you with a boss bitch,
Like I love you I love you	now you can tell the difference
	You be like jungle digger
But you can say baby	I don't want another n****a
<b>Baby can I hold you tonight</b>	I wanna make you 'bout a legend, but I
<b>Maybe if I told you the right words</b>	make you bigger
<b>Ooh, at the right time you'd be mine</b>	Tinkerbell, Peter Pan
	No bitches badder than me when I pull up
<b>Baby can I hold you tonight</b>	Got 'em screaming like a temper tan'
<b>Maybe if I told you the right words</b>	Ayo, DJ, drop the beat
<b>At the right time you'd be mine</b>	My gun didn't fall but I drop the heat
	I love how we kept it on the low, mad
<b>You'd be mine</b>	discreet (I'm in a rush!)
<b>You'd be mine</b>	

1	<b><i>Baby Can I Hold You</i></b>	<b><i>Sorry</i></b>
2	<b>(the Composition)</b>	<b>(the Infringing Work)</b>
3		Pass me the keys to my jeep (truck)
4		I hit 'em with it, I'ma kill 'em with that
5		wine wine
6		Ain't losin' watches, but with me, he
7		always find time
8		We keep it classy when we eatin' it's
9		that fine dine
10		But between love and hate, baby, it's a
11		fine line
12		<b>Sorry</b>
13		<b>Is all that you can't say</b>
14		<b>Years gone by and still</b>
15		<b>Words don't come easily</b>
16		<b>Like forgive me (forgive me)</b>
17		<b>And you can say, baby (baby)</b>
18		<b>My baby, can I hold you tonight?</b>
19		<b>And maybe if I told you the right</b>
20		<b>words</b>
21		<b>Ooh, at the right time</b>
22		<b>You'd be Nas</b>
23		A mack
24		I used to mack with the MAC on me
25		Project parties, lights off, mad horny
26		Dutty wine and feel the gun I'm hidin'
27		She still grindin' on me, smilin' at me
28		I'm like "Hi, I'm Nasty"
		"God bless ya, met ya"
		Thought you were sexy as ever
		Flexing with your ex, I couldn't
		disrespect ya'
		Later on, I undress ya, couldn't wait to
		sex ya'
		Made a n***a wait so long, but it was
		special
		Light travel faster than sound
		Lightning strike one second every point
		two miles
		So when you first saw me emerge from a
		weed cloud

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<b><i>Baby Can I Hold You</i></b> <b>(the Composition)</b>	<b><i>Sorry</i></b> <b>(the Infringing Work)</b>
	<p>Electricity touch your soul, that's how I get down Gangsta love Completing each other Touching tongues so close, we could breathe for each other Untouchable boy with the illustrious girl But maybe being together's too much for the world, sorry <b>Sorry</b> <b>Is all that you can't say</b> <b>Years gone by and still</b> <b>Words don't come easily</b> <b>Like forgive me (forgive me)</b> <b>And you can say, baby (baby)</b> <b>My baby, can I hold you tonight?</b> <b>And maybe if I told you the right</b> <b>words</b> <b>Ooh, at the right time</b> <b>You'd be Nas</b></p>